

STATE OF MICHIGAN
COURT OF APPEALS

PEOPLE OF THE STATE OF MICHIGAN,

Plaintiff-Appellee,

v

LONNIE WILLIAM KOSTE,

Defendant-Appellant.

UNPUBLISHED
November 2, 2006

No. 263443
Bay Circuit Court
LC No. 03-010685-FH

Before: Cavanagh, P.J., and Bandstra and Owens, JJ.

PER CURIAM.

Defendant appeals as of right his jury trial conviction of operating a motor vehicle while under the influence of intoxicating liquor (OUIL) causing serious injury, MCL 257.625(5). We affirm. This case is being decided without oral argument pursuant to MCR 7.214(E).

At trial, evidence was presented that defendant ran a stop sign and struck the passenger side of a vehicle traveling on the cross street. After the accident, defendant's blood alcohol level was determined to be .19 percent. A passenger in the vehicle defendant struck was knocked unconscious and suffered broken ribs, a lacerated liver, and a fractured pelvis, leaving her unable to walk for two months following the accident. For an additional four months thereafter she was unable to walk without the assistance of a walker, and she continues to suffer from mild pain and discomfort in her leg and hip. At the close of the prosecution's proofs, defendant moved for a directed verdict. The trial court denied the motion, finding that the victim had suffered a serious impairment of body function under the glossary set out in the version of MCL 257.625(5) in effect at the time of the offense, as well as under the definition set out in the no-fault act, MCL 500.3135(7), and case law interpreting that statute.

Defendant argues that the trial court erred in denying his motion for a directed verdict. When reviewing a trial court's decision on a motion for a directed verdict, we review the record de novo to determine whether the evidence presented by the prosecutor, viewed in the light most favorable to the prosecutor, could persuade a rational trier of fact that the essential elements of the crime charged were proven beyond a reasonable doubt. *People v Aldrich*, 246 Mich App 101, 122; 631 NW2d 67 (2001). We also review de novo questions of statutory interpretation. *People v Thomas*, 263 Mich App 70, 73; 687 NW2d 598 (2004).

Defendant argues that the interpretation of the phrase "serious impairment of a body function" employed when analyzing the no-fault act, MCL 500.3135, should be used to clarify

the meaning of an identical phrase used in the criminal statute at issue here, MCL 257.625(5). Defendant asserts that if the no-fault act interpretation is applied here, the victim did not suffer a “serious impairment of a body function.” However, this Court rejected that argument in the context of a conviction for causing serious impairment of a body function while resisting arrest. *Thomas, supra* at 73-74. If “a statute supplies its own glossary, courts may not import any other interpretation but must apply the meaning of the terms as expressly defined.” *Id.* at 75 (citations omitted). The criminal statute at issue in *Thomas* had its own glossary. *Id.* at 74-75. Accordingly, this Court held that using the no-fault statute to interpret the language of the criminal statute was inappropriate. *Id.* at 75. Similarly, the version of MCL 257.625(5) in effect at the time of the offense committed here had its own glossary, and using the no-fault statute to interpret the language of the statute would be inappropriate.¹

Here, the victim suffered broken ribs, a lacerated liver, and a fractured pelvis as a result of the accident. The victim was unable to walk for two months following the accident, and could not walk without the assistance of a walker for four months thereafter. The victim missed work during that time and still experiences tightness and discomfort in her leg and hip. Yet, even if her injuries were not long lasting, that fact does not remove them from the definition of serious impairment of a body function under MCL 257.625(5), because the statutory language indicates that some injuries of short duration fall within the statute. See *Thomas, supra* at 76-77. Moreover, serious bone fractures may constitute serious impairment of a body function. MCL 257.625(5)(h). Although the victim’s fractures did not require treatment, they rendered her immobile for two months and limited her movement for several additional months. Viewing the evidence in the light most favorable to the prosecution, a rational trier of fact could conclude that the victim suffered a serious bone fracture, and, thus, a serious impairment of a body function. Accordingly, the trial court properly denied defendant’s motion for a directed verdict.²

We affirm.

/s/ Mark J. Cavanagh
/s/ Richard A. Bandstra
/s/ Donald S. Owens

¹ The offense at issue here was committed on July 13, 2003, before the September 30, 2003 amendment which removed the glossary from the statute.

² While the trial court correctly determined that the victim suffered a serious impairment of body function under the version of MCL 257.625(5) in effect at the time of the offense, it was error to also employ the definition set out in MCL 500.3135(7) to further support that conclusion. However, we may affirm the trial court’s decision when it reaches the correct result for the wrong reason. *People v Witherspoon*, 257 Mich App 329, 335; 670 NW2d 434 (2003).